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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,002	11/07/2001	Jozef Herman Peter Bastiaens	08CN07467-1	5002

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EXAMINER

LEE, RIP A

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 02/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/683,002

Applicant(s)

BASTIAENS ET AL.

Examiner

Rip A. Lee

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 16-21, 23-25 and 30 is/are allowed.
- 6) ☒ Claim(s) 26-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

### DETAILED ACTION

This office action follows a response filed on February 9, 2002. Claims 1, 3-5, 21, 24-26, and 30 were amended, and claims 14, 15, and 22 were canceled. Appropriate changes to the specification were made to reflect the claimed subject matter.

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,109,052 to Kasai *et al.* in view of U.S. Patent No. 4,038,343 to Yonemitsu *et al.*

Kasai *et al.* discloses a composition comprising 25-70 wt % of a polyphenylene ether and 25-70 wt % of a polyamide (claim 1). There can be added to the composition filler such as carbon fiber or carbon black such that the properties of the present invention are not impaired (col. 14, lines 51-54). The polyphenylene ether is obtained by copolymerizing 2,6-dimethylphenol with 2,3,6-trimethylphenol (claim 6). The reference is silent with respect to the constitution of said copolymer, but it can be gleaned that 2,6-dimethylphenol is the major component.

Yonemitsu *et al.* discloses a general method for preparing PPE copolymer comprised of 50-98 mole % 2,6-dimethylphenol and 2-50 mole % 2,3,6-trimethylphenol (Example 1). This PPE copolymer contains 2,6-dimethylphenol as the major component, and therefore, one having skill in the art would have found it obvious to use the PPE of Yonemitsu *et al.* in the composition of Kasai *et al.* to arrive at the polyphenylene ether of the present claims. Such a substitution is obvious because it is suggested in the primary reference.

Kasai *et al.* also discloses use of compatibilization agents such as maleic acid or maleic anhydride in an amount of 0.05-10 parts by weight (col. 13, lines 49 and 63). According to the inventors, the composition has utility as a material for exterior trims and board part of automobiles (col. 29, lines 18-20). In conclusion, one having ordinary skill in the art would have found it obvious to use the components described above because their use in conductive polyphenylene ether-polyamide compositions is fully disclosed in Kasai *et al.*

***Allowable Subject Matter***

4. Claims 1-13, 16-21, 23-25 and 30 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:  
The above claims are allowed over the closest reference, U.S. Patent No. 5,109,052 to Kasai *et al.* The prior art does not teach specifically use of a combination of SEBS and SEP copolymers as impact modifier for the polyphenylene ether composition. Such an embodiment is not obvious to the skilled artisan, especially in view of the subject matter of the reference.

***Response to Arguments***

6. All claim rejections concerning claims 1-13, 16-21, 23-25 and 30 have been overcome by amendment.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (703)306-0094. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (703)308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703)746-7064. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.



DAVID W. WU  
SUPERVISORY PATENT EXAMINER  
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February 6, 2003